

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OUSMANE BAH,

Plaintiff,

-against-

APPLE INC. and SECURITY INDUSTRY
SPECIALISTS, INC., JOHN WOODRUFF,
Individually and as an employee of SECURITY
INDUSTRY SPECIALISTS, INC.,

Defendants.

Docket No. 1:19-cv-03539-PKC

STIPULATION OF DISMISSAL WITH PREJUDICE

WHEREAS, plaintiff Ousmane Bah (“Plaintiff”) filed this action on April 22, 2019 (the “Action”) against defendants Apple Inc. (“Apple”) and Security Industry Specialists, Inc. (“SIS”), and on July 15, 2020 amended the complaint to assert claims against defendant John Woodruff, an SIS employee (“Woodruff”—together with SIS, the “SIS Defendants”—and together with Plaintiff, Apple, and SIS, the “Parties”);

WHEREAS, the Court entered an Order of Dismissal on November 12, 2021 (ECF No. 171) without prejudice;

WHEREAS, Apple and the SIS Defendants learned through discovery in the Action that another individual impersonated Plaintiff in connection with numerous thefts from Apple stores in the Northeast region in 2018 (the “Thefts”) and thereby caused Plaintiff’s name to become associated with the Thefts;

WHEREAS, the Parties acknowledge that another individual and not Plaintiff committed the Thefts, thereby causing injury to the Parties;

WHEREAS, Plaintiff has stated throughout this Action that he was not involved in the Thefts, and Apple and the SIS Defendants acknowledge that no evidence adduced during discovery demonstrates Plaintiff's contention to be untrue;

WHEREAS, Plaintiff originally alleged that Apple or SIS identified Plaintiff as a shoplifter using facial recognition technology, but now acknowledges that another individual's impersonation of Plaintiff—and not facial recognition technology—caused Plaintiff's name to be associated with the Thefts; and

WHEREAS, Apple has stated throughout this Action—including in verified responses to interrogatories that were sworn to under penalty of perjury—that it does not use, or facilitate the use of, facial recognition technology for security or in the operations of its retail stores, nor has it ever done so, and Plaintiff and the SIS Defendants acknowledge that no evidence adduced during discovery demonstrates Apple's contention to be untrue.

* * *

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties and their respective counsel that, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff hereby dismisses all claims in this Action WITH PREJUDICE. Each party shall bear its own costs and attorneys' fees.

SO STIPULATED

Dated: December 17, 2021

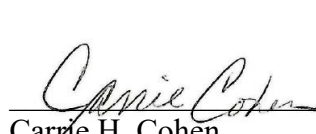


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Dated: December 17, 2021



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Counsel for Defendants
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Inc. and John Woodruff

SO ORDERED on this _____ day of _____, 2021.

Hon. P. Kevin Castel, U.S.D.J.